

# October 2003

## Update: Juvenile Justice Benchbook (Revised Edition)

### CHAPTER 10

#### Juvenile Dispositions

#### 10.9 Dispositional Options Available to Court

##### C. In-Home Probation

Insert the following text at the end of the second paragraph on page 221:

Effective October 1, 2003, 2003 PA 71 amends MCL 712A.18(1)(b) to require the court to order, as a condition of probation or supervision, that the juvenile pay the minimum state cost prescribed by MCL 712A.18m.\*

\*See the update for Section 10.14, below, for information on the minimum state cost prescribed by MCL 712A.18m.

## CHAPTER 10

### Juvenile Dispositions

#### 10.9 Dispositional Options Available to Court

##### K. State Minimum Costs

On page 226, change the subsection heading as indicated above, delete the first sentence in subsection K, and insert the following text:

Effective October 1, 2003, MCL 712A.18(1)(k), which permitted the court to order the juvenile to pay court costs, has been eliminated. 2003 PA 71 eliminated MCL 712A.18(1)(k) but added provisions requiring the court to order the juvenile to pay state minimum costs.

MCL 712A.18m requires a court to order state minimum costs for felonies, specified or serious misdemeanors,\* misdemeanors, and ordinance violations. MCL 712A.18m(1) provides:

“(1) If a juvenile is within the court’s jurisdiction under section 2(a)(1) of this chapter, the court shall order the juvenile to pay costs of not less than the following amount, as applicable:

“(a) \$60.00, if the juvenile is found to be within the court’s jurisdiction for a felony.

“(b) \$45.00, if the juvenile is found to be within the court’s jurisdiction for a serious misdemeanor or a specified misdemeanor.

“(c) \$40.00, if the juvenile is found to be within the court’s jurisdiction for a misdemeanor not described in subdivision (b) or of an ordinance violation.”

The court clerk must submit the state minimum costs collected to the Justice System Fund. MCL 712A.18m(2).\* See also MCL 600.181 for information on the Justice System Fund.

Replace the quotation of MCL 771.3(7)(a)-(b) at the bottom of page 227 and top of page 228 with the following:

“(a) The court shall not require a probationer to pay costs under subsection (2) unless the probationer is or will be able to pay them during the term of probation. In determining the amount and method of payment of costs under subsection (2), the court shall

\*See Section 10.13(B) for a listing of “serious” and “specified” misdemeanors.

\*See the update for Section 10.14, below, for information on the allocation of funds collected.

take into account the probationer's financial resources and the nature of the burden that payment of costs will impose, with due regard to his or her other obligations.

“(b) A probationer who is required to pay costs under subsection (1)(g)\* or subsection (2)(c) and who is not in willful default of the payment of the costs may petition the sentencing judge or his or her successor at any time for a remission of the payment of any unpaid portion of those costs. If the court determines that payment of the amount due will impose a manifest hardship on the probationer or his or her immediate family, the court may remit all or part of the amount due in costs or modify the method of payment.”

\*MCL  
771.3(1)(g)  
requires a  
probationer to  
pay state  
minimum costs  
pursuant to  
MCL 769.1j.

## CHAPTER 10

### Juvenile Dispositions

#### 10.14 Allocation of Fines, Costs, Restitution, Fees, Assessments, and Other Payments

Effective October 1, 2003, 2003 PA 74, 98, and 102 amend MCL 712A.29, MCL 780.794a, and MCL 775.22, respectively. These amendments provide consistent rules for allocating the payments described in this section. Replace the second and third bullets in the “**Criminal cases**” subsection on the bottom of page 259 and top of page 260 with the following text:

- For violations of state law, the remaining money must be applied in the following descending order of priority:
  - minimum state cost;
  - other costs;
  - fines;
  - probation or parole supervision fees;
  - assessments (other than the “crime victim’s rights assessment”) and other payments, including reimbursement to third parties who reimbursed a victim for his or her loss. MCL 775.22(3) and MCL 780.794a(3).
- For violations of local ordinances, the remaining money collected must be applied in the following descending order of priority:
  - minimum state cost;
  - fines and other costs;
  - assessments and other payments. MCL 775.22(4) and MCL 780.794a(4).

Replace the second and third bullets in the “**Juvenile delinquency cases**” subsection on page 260 with the following:

- In cases involving orders of disposition for offenses that would be violations of state law if committed by an adult, the remaining money must be applied in the following descending order of priority:
  - minimum state cost;
  - other costs;

- fines;
- assessments (other than the “crime victim’s rights assessment”) and other payments. MCL 712A.29(3).
- In cases involving orders of disposition for offenses that would be violations of local ordinances if committed by an adult, the remaining money collected must be applied in the following descending order of priority:
  - minimum state cost;
  - fines and other costs;
  - assessments (other than the “crime victim’s rights assessment”) and other payments. MCL 712A.29(4).

A fine imposed for a felony, misdemeanor, or ordinance violation must not be waived unless costs, other than the minimum state cost, are waived. MCL 712A.18m(3).

## CHAPTER 25

### Recordkeeping & Reporting Requirements

#### 25.19 DNA Profiling Requirements

##### E. Ordering and Distribution of Assessment Fees

Beginning on page 546, replace the text in the subsection titled “**Persons convicted or found responsible**” with the following text:

After October 1, 2003, the court is no longer required to order the DNA assessment fee provided for in MCL 712A.18k(4). The court is still required to order the DNA testing; however, the corresponding assessment fee has been eliminated.

If the court ordered the DNA assessment fee prior to October 1, 2003, but the fee is collected on or after October 1, 2003, then the court must distribute the DNA assessment or portions of the DNA assessment as follows:

- ♦ 10% to the court.
- ♦ 25% to the county sheriff or other investigating law enforcement agency that collected the DNA sample as designated by the court.
- ♦ 65% to the State Treasurer for deposit in the Justice System Fund. MCL 712A.18k(7).